

DOCUMENT RESUME

03857 - [A2733953]

[Protest against Time and Materials-Type Contract]. B-189792.
September 23, 1977. 2 pp.

Decision re: Precision Design and Mfg. Co., Inc.; by Paul G.
Dembling, General Counsel.

Issue Area: Federal Procurement of Goods and Services (1900).
Contact: Office of the General Counsel: Procurement Law II.
Budget Function: National Defense: Department of Defense -
Procurement & Contracts (058).
Organization Concerned: Department of the Navy: Naval Supply
Center, Charleston, SC.
Authority: 4 C.F.R. 20. B-188124 (1977). B-188174 (1977).

A company contended that existing time and materials contracts should be terminated or suspended because criminal indictments were rendered against several of the contractor's officers and employees. The termination or suspension of a contract is a matter of contract administration and is the function of the contracting agency. An investigation by GAO is neither necessary nor appropriate in view of pending criminal and civil investigations. (Author/SW)

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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-189792

DATE: September 23, 1977

MATTER OF: Precision Design and Manufacturing Co., Inc.

DIGEST:

Contention that existing time and materials contracts should be terminated or suspended because criminal indictments have been rendered against several of contractor's officers and employees pertains to matter of contract administration, which is function and responsibility of contracting agency and not for resolution under our Bid Protest Procedures, 4 C.F.R. part 20 (1977).

In October and November 1975, Precision Design and Manufacturing Co., Inc. (Precision), filed a protest with the Navy Supply Center (NSC), Charleston, South Carolina, against the award of time and materials contracts for fabrication, installation and maintenance of certain electronics equipment under solicitations Nos. N00612-76-R-0014 and -0019 issued by NSC. The basis for Precision's protest was that the time-and-materials-type contract is unfair and noncompetitive because: (1) the Government could not be assured that a contractor would employ workers with the skill levels required by the contract; (2) the Government could not be assured that the number of hours billed by the contractor was actually used on work under the contract; (3) inspection and acceptance would not be administered by the Defense Contract Administration Services Region in Atlanta; and (4) small businesses in the area would be adversely affected.

NSC denied the protest by letter dated November 26, 1975, stating that: (1) both solicitations were 100-percent small business set-asides; (2) in NSC's experience, annual indefinite quantity-type contracts are easier to administer than a series of small orders, resulting in a lower total cost for supplies and services; and (3) the administration of the contracts would be performed by the Naval Electronics Systems Engineering Center, Charleston, NSC and the Defense Contract Audit Agency. NSC advised Precision that a protest could be filed with our Office if a review of NSC's denial was desired. Precision did not protest here.

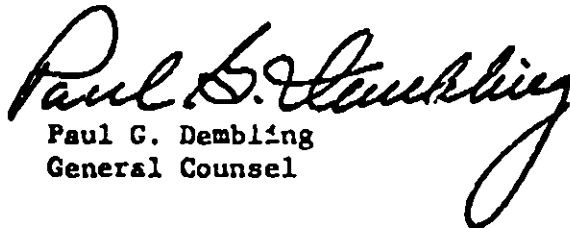
By letter received on July 28, 1977, after complete performance of both contracts, Precision says that NSC was warned against using time-and-materials-type contracts and, therefore, requests that our Office terminate or suspend the contracts now in effect based on a pending Department of Justice, Federal Bureau of Investigation (FBI), probe resulting in recent criminal fraud indictments against several officers and employees of one of the awardees. Precision also requests

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a full investigation of all time-and-materials contracts awarded in the Charleston, South Carolina, area.

The termination or suspension of a contract is a matter of contract administration and is the function and responsibility of the contracting agency. Matters of contract administration are not for resolution under our Bid Protest Procedures, 4 C.F.R. part 20 (1977), which are reserved for considering whether an award or proposed award of a contract complies with statutory, regulatory and other legal requirements. See Advance Window Systems, Inc., B-188124, February 8, 1977, 77-1 CPD 97; SMI (Watertown), Inc., B-188174, February 8, 1977, 77-1 CPD 98. While the manageability of time-and-materials contracts as compared with other types of contracts is a matter cognizable under our audit function, in view of the pending criminal and civil investigations (the Navy is also conducting an investigation) concerning these particular contracts, an investigation by our Office is neither necessary nor appropriate.

Therefore, we are closing our file.


Paul G. Dembling
General Counsel